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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,745	12/28/2000	Paul A. Rupsis	PM 273238 P10246	5550

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EXAMINER

ESCALANTE, OVIDIO

ART UNIT PAPER NUMBER

2645

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/749,745

Applicant(s)

RUP SIS, PAUL A.

Examiner

Ovidio Escalante

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-12, 14, 15, 23-27 and 29-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 8-12, 14, 15, 23-27 and 29-31 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is in response to applicant's amendment filed on November 4, 2005. **Claims 8-12,14-15,23-27,29-31** are now pending in the present application.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 6, 2005 has been entered.

#### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 8,11,14,15,23,26,29 and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over "Proposal for an MGCP Advanced Audio Package" RFC 2897 (XP-002212513) by Cromwell, hereinafter Cromwell, in view of Iyengar et al. US Patent 6,049,765

***Regarding claims 8 and 23***, Cromwell teaches a record audio module configured to be included in an audio resource function, (Cromwell discloses an "event/signal package" (record audio module) that is included in a media gateway control protocol for supporting IVR operations (audio resource function)), (abstract, page 6), comprising:

an audio record process operable to request a decomposed media gateway to record an audio stream in response to a received signal, (page 6, "Play Record"),

wherein media recording is altered based on at least one signal traveling between the record audio module and the decomposed media gateway (The audio record is also altered based on the desired message to be played out (e.g., page 24). Because the event/signal package (play audio module) controls the media gateway, then at least one control "signal" travels between the module and the gateway) and a resultant media recording is analyzed a to a reason it terminated, (page 6 Cromwell teaches detecting an "operationcomplete" signal upon successful completion the "playrecord" command);

an audio stream container offset parameter to specify a location in an audio stream container that was being recorded when the recording was terminated, (Cromwell discloses a Return Parameter in the form of an "Amount Played" value, which specifies a location (length played of an initial prompt) that was played when the audio stream prompt playback was terminated (interrupted). Thus, the Amount Played parameter reads on the audio stream container offset parameter), (pages 12 and 14).

Cromwell does not specifically teach a pause compression processor to detect and eliminate periods of speech inactivity from a recording.

In the same field of endeavor, Iyengar teaches of a recording process that detects and eliminates periods of speech inactivity (abstract).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add detection and elimination of periods of speech inactivity as taught by the recording process of Iyengar to the recording process disclosed by Cromwell so that data storage can be increased by removing unnecessary silence segments, (Iyengar, col. 1, line 41-67).

***Regarding claims 11,12,26 and 27***, Cromwell teaches a format specifying process operable to specify the digital encoding format of a recording, (see page 3, where a user is able provision the media gateway to support a coder process that specifies coder values relating to audio file format).

***Regarding claims 14,15,29 and 30***, Cromwell teaches a record prompt tone generation process operable to generate a prompt tone that is either fixed or configurable and a record analysis process operable to determine the length of audio recorded and to identify a record termination condition that caused a recording to stop, (page 6)

5. Claims 9,10,24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Proposal for an MGCP Advanced Audio Package" RFC 2897 (XP-002212513) by Cromwell hereinafter Cromwell in view of Iyengar and further in view of Kamisnksy U.S. Patent No. 6,295,342.

***Regarding claims 9,10,24 and 25***, while Cromwell discloses a recording process that waits for seven seconds after speech stops to make sure the user is finished (page 24), Cromwell fails to specifically disclose that recording process is paused and resumed, where the recording process is operable to append the recording to an existing recording.

In the same field of endeavor, Kaminsky teaches of a telephonic IVR system (abstract) that pauses and resumes the recording process in order to append the recording to an existing recording (e.g., col. 2, lines 33-67).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a pause and resume in order to append the recording to an existing recording as taught by the IVR system of Kaminsky to the IVR system disclosed by Cromwell so

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that there can be increased efficiency and accuracy of collecting information from by avoiding the difficulty to "correlate all of the responses of a single user" which causes the "transcriber assigned to coordinate the responses of each user session" to be faced with a "considerable challenge" and "considerable work" (Kaminsky, col. 2, lines 9-25).

***Response to Arguments***

6. Applicant's arguments filed September 6, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the Examiner relied upon Iyengar for the teaching of eliminating periods of speech inactivity/silence from a recording.

The motivation provided by the Examiner states that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add detection and elimination of periods of speech inactivity so that data storage of the audio recording can be increased by removing the silence segments (Iyengar, col. 1, lines 41-67).

The Applicant states that there is no hint or suggestion in either Cromwell or Iyengar to combine, however, since both Cromwell and Iyengar pertain to audio recordings and since

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Iyengar teaches that removing speech inactivity would be beneficial so that data storage can be increased then the Examiner maintains that there is sufficient grounds for obviousness.

In response to applicant's argument that Iyengar is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, claim 8, as amended, claims a pause compression process operable to detect and to eliminate periods of speech inactivity from a recording. The Examiner relied upon Iyengar for the teaching of eliminating periods of speech inactivity/silence from a recording. Since both Cromwell and Iyengar pertain to audio recording then Iyengar is in the same field of endeavor of audio recordings.

### ***Conclusion***

7. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30AM to 4:00PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**OVIDIO ESCALANTE**  
**PATENT EXAMINER**

*Ovidio Escalante*

Ovidio Escalante  
Primary Patent Examiner  
Group 2645  
December 2, 2005

O.E./oe